

Legal References for LWRM Plan Checklist

Section I. Question 1

Local Advisory Committee

ATCP 50.12(3) **Plan development.** A county land conservation committee, when preparing a land and water resource management plan, shall do all of the following:

- (a) Appoint and consult with a local advisory committee of interested persons.

Note: A local advisory committee should reflect a broad spectrum of public interests and perspectives.

For example, it could include:

- Affected farmers, businesses and landowners.
- Agricultural, business, environmental, civic and recreational organizations.
- Federal, state, local and tribal officials.
- The University of Wisconsin and other educational institutions.

Section II. Question 1 and 2.

Public Participation

92.10(6)(b) **Notification.** A land conservation committee shall notify landowners and land users of the results of any determinations concerning soil erosion rates and nonpoint source water pollution, and provide an opportunity for landowners and land users to present information relating to the accuracy of the determinations during preparation of the land and water resource management plan.

92.10(6)(c) **Hearings.** A land conservation committee shall hold one or more public hearings on the land and water resource management plan.

ATCP 50.12(4) **Public notice and hearing.** Before a county land conservation committee submits a land and water resource management plan for department approval, the committee shall do all of the following:

- (a) Hold at least one public hearing on the plan.

- (b) Make a reasonable effort to notify landowners affected by committee findings under sub. (2) (d) and (e), and give them an opportunity to present information related to the accuracy of the committee's findings.

Note: The county land conservation committee should consult with the department before holding public hearings on a land and water resource management plan

Section II. Question 3.

County Board Approval

ATCP 50.12(5) **Land and water resource management plan** The department's approval does not take effect if the county board does not approve the county plan.

Note: The county board may approve the county land and water resource management plan before or after the department approves the plan. The plan approved by the county board must be the same plan approved by the department. If the department requires changes to a plan previously approved by the county board, the department's approval does not take effect until the county board approves the modified plan.

Section III. Questions 1.a. and 1.b.

Soil and Water Resource Assessment

92.10(6) **Implementation; committee duties** (a) Plan preparation. A land conservation committee shall prepare a land and water resource management plan that, at a minimum, does all of the following:

1. Includes an assessment of water quality and soil erosion conditions throughout the county, including any assessment available from the department of natural resources.

ATCP 50.12(2) **Plan contents.** A land and water resource management plan shall describe all of the following in reasonable detail:

- (a) Water quality and soil erosion conditions throughout the county, including identification of the causes of water quality impairment and pollutant sources. The plan shall include water quality assessments for each watershed in the county available from DNR, if any.
- ...
- (d) Key water quality and soil erosion problem areas. The county land conservation committee shall identify key water quality problem areas in consultation with DNR.

Section III Questions 2.

Water Quality Objectives

92.10(6) **Implementation; committee duties.** (a) Plan preparation. A land conservation committee shall prepare a land and water resource management plan that, at a minimum, does all of the following: . . .

- ...
2. Specifies water quality objectives for each water basin, priority watershed, as defined in s. 281.65 (2) (c), and priority lake, as defined in s. 281.65 (2) (be).

ATCP 50.12(2) **Plan contents.** A land and water resource management plan shall describe all of the following in reasonable detail:

- ...
- (c) Water quality objectives for each watershed, including any available pollutant load reduction targets, consistent with conditions identified in par. (a). The county shall consult with DNR to determine water quality objectives and to identify pollutant load reduction targets.

ATCP 50.12(3) **Plan development.** A county land conservation committee, when preparing a land and water resource management plan, shall do all of the following:

- ...
- (e) Establish and document priorities and objectives

Section III. Question 3.

DNR Consultation

92.10(8) **Duties of the department of natural resources.** The department of natural resources shall provide counties with assistance in land and water resource management planning, including providing available water quality data and information, providing training and support for water resource assessments and appraisals and providing related program information.

ATCP 50.12(2) **Plan contents.** A land and water resource management plan shall describe all of the following in reasonable detail:

- (a) Water quality and soil erosion conditions throughout the county, including identification of the causes of water quality impairment and pollutant sources. The plan shall include water quality assessments for each watershed in the county available from DNR, if any.

...

- (c) Water quality objectives for each watershed, including any available pollutant load reduction targets, consistent with conditions identified in par. (a). The county shall consult with DNR to determine water quality objectives and to identify pollutant load reduction targets.
- (d) Key water quality and soil erosion problem areas. The county land conservation committee shall identify key water quality problem areas in consultation with DNR.

ATCP 50.12(3) **Plan development.** A county land conservation committee, when preparing a land and water resource management plan, shall do all of the following:

...

- (c) Consult with DNR.

Note: The county land conservation committee should normally consult with the appropriate DNR staff to obtain needed planning information, effectively address resource management concerns, and ensure that its plan incorporates elements that satisfy planning requirements under section 319 of the Clean Water Act.

Section IV. Question 1.a.

Voluntary Implementation Strategy

ATCP 50.12(2) **Plan contents.** A land and water resource management plan shall describe all of the following in reasonable detail:

...

- (g) County strategies to encourage voluntary implementation of conservation practices under s. ATCP 50.04. A county shall estimate the amount of information and education, cost-sharing, and other financial assistance and technical assistance needed to implement its plan.

Section IV. Question 1.b.

Regulations

ATCP 50.12(2) **Plan contents.** A land and water resource management plan shall describe all of the following in reasonable detail:

...

- (b) State and local regulations that the county will use to implement the county plan. The department may require the county to provide copies of relevant local regulations, as necessary, and may comment on those regulations. Note: See state rules under chs. ATCP 48, ATCP 50, NR 120, NR 151 and NR 243.

Section IV. Question 1.c.

Compliance Procedures

ATCP 50.12(2) **Plan contents.** A land and water resource management plan shall describe all of the following in reasonable detail:

...

- (h) Compliance procedures, including notice, hearing, enforcement and appeal procedures, that will apply if the county takes action against a landowner for failure to implement conservation practices required under this chapter, Ch. NR 151 or related local regulations. Note: See ss. ATCP 50.04 to 50.08 and subch. VII.

Section IV. Question 1.d. Practices Needed

92.10(6) **Implementation; committee duties.** (a) Plan preparation. A land conservation committee shall prepare a land and water resource management plan that, at a minimum, does all of the following:

...

3. Identifies the best management practices to achieve the objectives under subd. 2. and to achieve the tolerable erosion level under s. 92.04 (2) (i).
4. Identifies applicable performance standards and prohibitions related to the control of pollution from nonpoint sources, as defined in s. 281.65 (2) (b), and to soil erosion control, including those under this chapter and chs. 281 and 283 and ss. 59.692 and 59.693.

ATCP 50.12(2) Plan contents. A land and water resource management plan shall describe all of the following in reasonable detail:

...

- (e) Conservation practices needed to address key water quality and soil erosion problems.

Section IV. Question 1.e. FPP Compliance Monitoring

92.10(6)(a) **Plan preparation.** A land conservation committee shall prepare a land and water resource management plan that, at a minimum, does all of the following:

...

6. Describes a system to monitor the progress of activities described in the plan.

ATCP 50.12(2) Plan contents. A land and water resource management plan shall describe all of the following in reasonable detail:

...

- (jm) How a county will meet its responsibilities for monitoring conservation compliance of landowners claiming farmland preservation tax credits.

Section IV. Question 2. Cost and Other Estimates

92.10(4)(d) **Plan review.** The department shall review and approve or disapprove land and water resource management plans submitted by the land conservation committees. The department may require land conservation committees to indicate specific projects to be funded under each plan and the related cost-sharing rates.

ATCP 50.12(2) **Plan contents.** A land and water resource management plan shall describe all of the following in reasonable detail:

...

- (i) The county's multi-year work plan to implement the farm conservation practices under s. ATCP 50.04, and achieve compliance with performance standards under Ch. NR 151. The plan shall identify priorities, benchmarks for performance and expected costs, including an estimate of costs to implement conservation practices to achieve the objectives identified in par. (c).

Note: The County work plan under par. (i) should be based on a reasonable assessment of available funding and resources

ATCP 50.12(3) **Plan development.** A county land conservation committee, when preparing a land and water resource management plan, shall do all of the following:

...

(f) Project available funding and resources.

Section IV. Question 3.

Priority Farm Strategy

ATCP 50.12(2) **Plan contents.** A land and water resource management plan shall describe all of the following in reasonable detail:

...

(f) A plan to identify priority farms in the county

Note: The identification of priority farms may vary between counties, depending on local conditions, strategies and information. A county should focus on identifying or working with the following farms, or other categories of farms that the county identifies in its plan:

- Farms subject to a DNR notice of intent under s. 281.20, Stats. or notice of discharge under Ch. 283, Stats.
- Farms located in watersheds draining to waters that DNR has listed pursuant to 33 USC 1313. This is also known as the "303(d) list of impaired waters."
- Farms that have large numbers of livestock, or significant problems with manure management.
- Farms making clearly excessive nutrient applications.
- Farms with clearly excessive rates of cropland erosion.

ATCP 50.12(3) **Plan development.** A county land conservation committee, when preparing a land and water resource management plan, shall do all of the following:

...

(e) Establish and document priorities and objectives

Section IV. Question 4.

DNR consultation regarding NR 151 implementation

ATCP 50.12(3) **Plan development.** A county land conservation committee, when preparing a land and water resource management plan, shall do all of the following:

...

(c) Consult with DNR.

Note: The county land conservation committee should normally consult with the appropriate DNR staff to obtain needed planning information, effectively address resource management concerns, and ensure that its plan incorporates elements that satisfy planning requirements under section 319 of the Clean Water Act.

ATCP 50.10(1) **Program elements.** Every county land conservation committee shall establish and maintain a county soil and water conservation program. The program shall include all of the following elements:

...

(b) A program to implement soil and water conservation standards.

Note: A county's land and water resource management plan under s. ATCP 50.12 should identify the county's strategy to implement the farm conservation practices required under s. ATCP 50.04. Under s. ATCP 50.16, a county is required to monitor and ensure compliance with conservation standards for lands covered by the farmland preservation program under Ch. 91, Stats. See s. ATCP 50.14 and subch. VII related to county ordinances.

NR 151.09(2) **Role of municipalities.** The department may rely on municipalities to implement the procedures and make determinations established in this section.

Note: In most cases, the department will rely on municipalities to fully implement the cropland performance standards. The department intends to utilize the procedures in this section in cases where a municipality has requested assistance in implementing and enforcing the cropland performance standards or in cases where a municipality has failed to address an incident of noncompliance with the performance standards in a timely manner. The department recognizes that coordination between local municipalities, the Department of Agriculture, Trade and Consumer Protection and other state agencies is needed to achieve statewide compliance with the performance standards. Accordingly, the department plans on working with counties, the Department of Agriculture, Trade and Consumer Protection and other interested partners to develop a detailed intergovernmental strategy for achieving compliance with the performance standards that recognizes the procedures in these rules, state basin plans and the priorities established in land and water conservation plans.

NR 151.095(2) **Role of municipalities.** The department may rely on municipalities to implement the procedures and make determinations outlined in this section.

Note: In most cases, the department will rely on municipalities to fully implement the livestock performance standards and prohibitions. The department intends to utilize the procedures in this section in cases where a municipality has requested assistance in implementing and enforcing the performance standards or prohibitions or in cases where a municipality has failed to address an incident of noncompliance with the performance standards or prohibitions in a timely manner. The department recognizes that coordination between local municipalities, the department of agriculture, trade and consumer protection and other state agencies is needed to achieve statewide compliance with the performance standards and prohibitions. Accordingly, the department plans on working with counties, the department of agriculture, trade and consumer protection and other interested partners to develop a detailed intergovernmental strategy for achieving compliance with the performance standards and prohibitions that recognizes the procedures in these rules, state basin plans and the priorities established in land and water conservation plans.

Section V. Question 1.

Information and Education

92.10(6)(a) **Plan preparation.** A land conservation committee shall prepare a land and water resource management plan that, at a minimum, does all of the following:

...

7. Includes a strategy to provide information and education related to soil and water resource management.

ATCP 50.12(2) **Plan contents.** A land and water resource management plan shall describe all of the following in reasonable detail:

...

- (k) How the county will provide information and education related to land and water conservation, including information related to farm conservation practices and cost-share funding.

Section V. Question 2.

Agency Coordination

92.10(6)(a) **Plan preparation.** A land conservation committee shall prepare a land and water resource management plan that, at a minimum, does all of the following:

...

8. Describes methods for coordinating activities described in the plan with programs of other local, state and federal agencies.

ATCP 50.12(2) **Plan contents.** A land and water resource management plan shall describe all of the following in reasonable detail:

...

- (L) How the county will coordinate its land and water conservation program with federal, state and local agencies.

Note: The department and DNR will work with counties to develop more detailed guidelines and suggestions for county land and water resource management plans, but individual counties have some flexibility and discretion to propose plans that are appropriate for their local conditions

ATCP 50.12(3) **Plan development.** A county land conservation committee, when preparing a land and water resource management plan, shall do all of the following:

...

- (h) Identify roles and responsibilities

Section VI. Questions 1.

Work Planning

92.10(6)(a) **Plan preparation.** A land conservation committee shall prepare a land and water resource management plan that, at a minimum, does all of the following:

...

5. Includes a multiyear description of planned county activities, and priorities for those activities, related to land and water resources, including those designed to meet the objectives specified under subd. 2. and to ensure compliance with the standards and prohibitions identified under subd. 4.

ATCP 50.12(2) **Plan contents.** A land and water resource management plan shall describe all of the following in reasonable detail:

...

- (i) The county's multi-year work plan to implement the farm conservation practices under s. ATCP 50.04, and achieve compliance with performance standards under Ch. NR 151. The plan shall identify priorities, benchmarks for performance and expected costs, including an estimate of costs to implement conservation practices to achieve the objectives identified in par. (c).

Note: The County work plan under par. (i) should be based on a reasonable assessment of available funding and resources

- (j) How the county will monitor and measure its progress under par. (i)

ATCP 50.12(3) **Plan development.** A county land conservation committee, when preparing a land and water resource management plan, shall do all of the following:

...

- (e) Establish and document priorities and objectives

...

- (g) Establish and document a plan of action.

Section VI. Question 2.

Monitoring and Evaluation

92.10(6)(a) **Plan preparation.** A land conservation committee shall prepare a land and water resource management plan that, at a minimum, does all of the following:

...

6. Describes a system to monitor the progress of activities described in the plan.

ATCP 50.12(2) **Plan contents.** A land and water resource management plan shall describe all of the following in reasonable detail:

...

- (i) The county's multi-year work plan to implement the farm conservation practices under s. ATCP 50.04, and achieve compliance with performance standards under Ch. NR 151. The plan shall identify priorities, benchmarks for performance and expected costs, including an estimate of costs to implement conservation practices to achieve the objectives identified in par. (c).

Note: The County work plan under par. (i) should be based on a reasonable assessment of available funding and resources

- (j) The measurable annual and multi-year benchmarks the county will utilize to periodically monitor and measure its progress in meeting performance targets and achieving plan goals and objectives under the work plan in par. (i).

(jm)How a county will meet its responsibilities for monitoring conservation compliance of landowners claiming farmland preservation tax credits.

Section VII. Question 1 and 2.

ATCP 50.12(3) **Plan development.** A county land conservation committee, when preparing a land and water resource management plan, shall do all of the following:

...

- Consult with DNR.

Note: The county land conservation committee should normally consult with the appropriate DNR staff to obtain needed planning information, effectively address resource management concerns, and ensure that its plan incorporates elements that satisfy planning requirements under section 319 of the Clean Water Act.

While there is no statutory requirement in Section 319 for the submission, and approval, of plans to EPA to establish compliance with the minimum nine key elements, EPA approval of plans is a condition for certain federal benefits such as funding. EPA guidance, <http://water.epa.gov/polwaste/nps/upload/319-guidelines-fy14.pdf>, does specifically provide: "EPA regions have the discretion to determine when WBPs [watershed-based plans] meet the nine minimum elements and thus are acceptable for implementation with watershed project funding."